

REGULATION OF CARE (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Commentary on sections

Part 1: the Commission and Care Services

Proposals and applications in relation to registered care services

Section 12: Cancellation of registration

62. This section gives the Commission the power to cancel the registration of a care service registered under Part 1 that, having been issued with an improvement notice under section 10, is still not meeting the relevant requirements. This could be concern about how effectively the care standards are being taken into account or that a condition of registration has been breached or where a relevant offence has been committed. Further grounds for cancelling registration may be prescribed by order.
63. Subsection (2)(a) provides that relevant offences for the purpose of section 12 are:
- an offence under this Act – for example, providing a care service while not being registered (section 21(1)(a)), knowingly making a false or misleading statement when applying for registration or variation or removal of a condition (21(1)(b)), failing to display a current certificate of registration (21(2)) or obstructing an inspector (section 25(13));
 - an offence under regulations made under this Act (section 29(11)); or
 - any other offence which in the Commission’s view makes it appropriate to cancel a registration.
64. Registration can be formally cancelled even if a provider closes a care service before the cancellation process is complete. This will ensure that the provider’s record accurately reflects the situation and the Commission will be aware of previous history in dealing with any future applications. Again, the Commission must take the national care standards and the Council’s codes of practice into account in coming to its decisions.
65. Cancellation of registration would not normally be the first step in a formal enforcement action. It is only likely to be used where the service has not met conditions of registration over time and has ignored the serving of an improvement notice. If a care service provider is convicted of a relevant offence, such as obstructing an inspection and fails to remedy matters at fault, the Commission will be able to cancel registration. These cancellation of registration procedures are not part of the urgent cancellation procedure set out in section 18.